letters granted to Vincent should be brought into the Registry to be cancelled, and that, that having been done, the way was clear for a new grant to the two new attorneys.

The decision does not indicate what would have been the result had the surviving executor not made the fresh power of attorney, which was held to have effectually cancelled the first power.

The question being free of authority, my view in the present matter is that, when one of the daughters died, the other two then became the persons entitled to letters of administration. They may come in themselves at any time and ask for letters of administration; they, or either of them, may at any time revoke the power of attorney to the plaintiff; and may at any time execute a fresh power. When they are both dead other persons become entitled to letters of administration and the power to the plaintiff naturally ceases, and with the power his office as administrator. But until any of these events happen, the plaintiff still remains the administrator. The answer to the first question must therefore be that, in the present circumstances, the letters of administration granted to the plaintiff are still in force. As long as any of the principals are alive, some action by them or one of them is necessary to displace him.

Order Accordingly.

Solicitors for plaintiff—*Allen & Gledhill.*

[ORIGINAL CIVIL JURISDICTION]

MANNING, J.

June 15, 1939.

R. M. N. SATHAPPA CHETTIAR

v.

SONG CHWEE OON

(SINGAPORE SUIT No. 13 of 1939)

Moneylenders Ordinance Section 4(1)—unenforceable security—delivery up.

A moneylender lent money to the Defendant on a promissory note, and at the same time deposited documents with the moneylender by way of security. The promissory note contained no mention of the deposit of these documents as security and there was no other note or memorandum of the contract.

Held, the promissory note was unenforceable and the borrower was entitled to the return of the documents which he had deposited as security.

Held, also that numerals on a promissory note must be written either in English words or English figures, but it is inmaterial whether English words or English figures are used.

Cohen v. Lester (1938) 4 A.E.R. 188 followed.

TRIAL OF ACTION.

Tampoe-Philips for Plaintiff.

Aditan for Defendant.

Cur. Adv. Vult.

Manning, J.—The plaintiff claims from the defendant $690 due on a promissory note. The defendant does not deny the note or the amount due, but pleads that the contract is unenforceable, and counterclaims for the return of certain securities deposited with the plaintiff.

The defence is based on certain provisions of the Moneylenders Ordinance. The plaintiff admits that he is a moneylender and that on 21st January, 1938, he lent a sum of $1020 to the defendant. The defendant undertook to repay $1150 in ten monthly instalments of $115. There is a conflict of evidence with regard to certain securities deposited with the plaintiff, namely a share certificate for 1000 shares in the Radio Service Company of Malaya Ltd., the registration card of a motor car, and an insurance policy with respect to the said motor car. The defendant says that these documents were deposited with the plaintiff as security for the loan and at the time the loan was made. The plaintiff denies this. He says that on the 21st July, 1938, when the defendant had paid three instalments only, he sent him a letter of demand through his solicitor.

The defendant begged for further time, and the plaintiff says he agreed to give him 2 months to settle on condition that the defendant deposited with him as security the documents relating to the car and the shares. The defendant then deposited these documents as security with the plaintiff.

On this issue of fact I believe the defendant.

There were 4 persons present when the loan was made, the plaintiff, the defendant, one Oh Bah, and one Soh Eng Keok. Oh Bah was the person whom the defendant approached when he found he required a loan. Oh Bah saw Soh Eng Keok and Soh Eng

Keok introduced the defendant to the plaintiff. Oh Bah corroborates the defendant. Soh Eng Keok did not give evidence. The plaintiff made no attempt to secure his attendance. The defendant obtained a subpoena for his attendance, but service was not effected.

It is also to be noted that on the 16th August the defendant paid the plaintiff $145, i.e. an instalment of $115 and $30 default interest. It seems hardly likely that he would do this if plaintiff had agreed to give him a respite of two months at the end of July.

The promissory note does not contain in it any mention of the deposit of these documents as security, and there was no other note or memorandum of the contract. Under the provisions of Section 4 of the Moneylenders Ordinance the contract on the promissory note is unenforceable.

The defendant further pleaded that no copy of the promissory note was delivered to him. This I do not believe, he has acknowledged a receipt of a copy on the original note.

He also pleaded that the dates and numbers in the promissory note were not written in English numerals. A certain date was written "21st day of February next".

The defendant says it should have been written "21.2.1938". The word "ten" is written in two places. Defendant says it should have been written as "10", I disagree with the defendant's contentions in this respect. A numeral may be written either in words or figures. Section 4 (3) uses the expression "English numerals". In Section 7 the expression used is "English figures". The meaning as regards Section 4 (3) is that if a numeral has to be written it must be written in English words or in English figures, even if it has been already written in words or figures that are not English. There is nothing to indicate that the months of the year must be written in figures or that the word "next" is objectionable if it is clear what it means.

Another plea by the defendant is that the plaintiff omitted to enter in his ledger certain payments made by the defendant. The payments alleged were:—

$3 on the 28th February, 1938.
$15 on the 23rd May, 1938.
$30 on the 16th August, 1938.

The plaintiff has proved that he duly entered the payment of $30 in his ledger. I am not satisfied that the $3 was ever paid by the defendant. As regards the $15, plaintiff admits he received from defendant a cheque for $130 being an instalment of $115 and $15 default interest. He says he took the cheque and returned $15 cash to the defendant. The defendant denies this and is corroborated by an employee of his who says he was present at the time. I do not believe the plaintiff as to this. I believe he received this $15 and omitted to enter it in his book and therefore according to Section 6 (2) of the Moneylenders Ordinance he is not entitled to enforce this claim.

The defendant has counterclaimed for a declaration that the security deposited is unenforceable. I have already found that no mention was made in the promissory note of the deposit of any security, and Section 4 (1) of the Ordinance says that in such a case the security shall not be enforceable. He also asks for an order for the delivery of the documents deposited as security and Mr. Aditan has cited the authority *Cohen v. Lester,* 1938, All E.R. 188. That was a case decided on the Moneylenders Act, 1927, and Tucker, J., held that in the case of an unenforceable as distinct from an illegal contract the borrower was entitled to the return of his security.

Mr. Tampoe-Philips has asked me to hold that this case was wrongly decided. This I am not prepared to do. I hold that in the present case the defendant is entitled to the return of the documents he deposited as security and I find that these documents were a share certificate for 1000 fully paid up shares in the Radio Service Company of Malaya Ltd. and the Registration Card of a Fiat Balilla Motor Car No. S. 4988.

On the claim there will be judgment for the defendant with costs. On the counterclaim there will be judgment for the defendant, but without costs.

Claim dismissed with costs; counterclaim allowed without costs.

Solicitor for Plaintiff—*E. M. Tampoe-Philips.*

Solicitors for Defendant—*Aditan & Co.*